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7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2013-306

12 **CANDYCE LYNN OLIVER,**
13 **aka CANDYCE LYNN VAN OVER,**
14 **aka CANDYCE LYNN ROWLEY,**
15 **aka CANDY LYNN ROWLEY, et al.**
16 **5310 Canyon Crest Drive, Apt. 20**
17 **Riverside, CA 92507**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 **Registered Nurse License No. 369900**

19 Respondent.

20 **FINDINGS OF FACT**

21 1. On or about October 22, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs, filed Accusation No. 2013-306 against Candyce Lynn Oliver, also known as
24 Candyce Lynn Van Over, also known as Candyce Lynn Rowley, also known as Candy Lynn
25 Rowley, et al. (Respondent) before the Board of Registered Nursing. (A copy of the Accusation
26 is attached as Exhibit A.)

27 2. On or about March 31, 1984, the Board of Registered Nursing (Board) issued
28 Registered Nurse License No. 369900 to Respondent. The Registered Nurse License was in full
force and effect at all times relevant to the charges brought in Accusation No. 2013-306 and will
expire on August 31, 2013, unless renewed

1 3. On or about October 22, 2012, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 2013-306, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
4 and 11507.7) at Respondent's address of record which, pursuant to California Code of
5 Regulations, title 16, section 1409.1, and Business and Professions Code section 136, is required
6 to be reported and maintained with the Board. Respondent's address of record was and is:

7 5310 Canyon Crest Drive, Apt. 20
8 Riverside, CA 92507

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. On or about November 7, 2012, the aforementioned documents were returned by the
13 U.S. Postal Service marked "Attempted Not Known." The address on the documents was the
14 same as the address on file with the Board. Respondent failed to maintain an updated address
15 with the Board and the Board has made attempts to serve the Respondent at the address on file.
16 Respondent has not made herself available for service and therefore, has not availed herself of her
17 right to file a notice of defense and appear at hearing.

18 6. Government Code section 11506 states, in pertinent part:

19 (c) The respondent shall be entitled to a hearing on the merits if the respondent
20 files a notice of defense, and the notice shall be deemed a specific denial of all parts
21 of the accusation not expressly admitted. Failure to file a notice of defense shall
22 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
23 may nevertheless grant a hearing.

24 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
25 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2013-
26 306.

27 8. California Government Code section 11520 states, in pertinent part:

28 (a) If the respondent either fails to file a notice of defense or to appear at the
hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2013-306, finds that the charges and allegations in Accusation No. 2013-306, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$655.00 as of November 26, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Candyce Lynn Oliver, also known as Candyce Lynn Van Over, also known as Candyce Lynn Rowley, also known as Candy Lynn Rowley, et al. has subjected her Registered Nurse License No. 369900 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.:

a. Respondent has subjected her license to disciplinary action under sections 490 and 2761, subdivision (f) of the Code in that on or about February 2, 2007, in a criminal proceeding entitled *People of the State of California v. Candyce Lynn Oliver, aka Candy Lynn Rowley, aka Candyce Smith*, in Riverside County Superior Court, case number BAM030613, Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152, subdivision (a), driving under the influence, a misdemeanor. Respondent also pled guilty to violating Health and Safety Code section 11550, subdivision (a), under the influence of a controlled substance, a misdemeanor, for which deferred entry of judgment was granted for 18 months under Penal Code section 1000.

///

1 b. Respondent has subjected her license to disciplinary action under sections 490
2 and 2761, subdivision (f) of the Code in that on or about February 7, 2008, in a criminal
3 proceeding entitled *People of the State of California v. Candyce Lynn Oliver, aka Candy Lynn*
4 *Rowley, aka Candyce Smith, aka Candyce Lynn Rowley*, in Riverside County Superior Court, case
5 number RIM508781, Respondent was convicted on her plea of guilty of violating Health and
6 Safety Code section 11377, subdivision (a), possession of a controlled substance, to wit,
7 methamphetamine; and Health and Safety Code section 11364, possession of controlled substance
8 paraphernalia, misdemeanors.

9 c. Respondent has subjected her license to disciplinary action under section 2762,
10 subdivision (a) of the Code for unprofessional conduct in that Respondent possessed
11 methamphetamine on or about December 23, 2007.

12 d. Respondent has subjected her license to disciplinary action under section 2762,
13 subdivision (b) of the Code for unprofessional conduct in that on or about December 6, 2006,
14 Respondent was under the influence of the controlled substance methamphetamine.

15 e. Respondent has subjected her license to disciplinary action under section 2762,
16 subdivision (c) of the Code for unprofessional conduct in that on or about February 2, 2007, and
17 February 7, 2008, Respondent was convicted of drug-related crimes.

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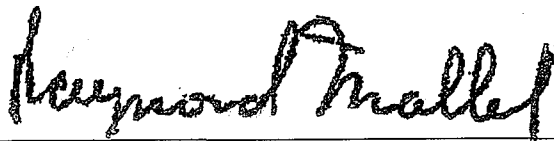
ORDER

IT IS SO ORDERED that Registered Nurse License No. 369900, heretofore issued to Respondent Candyce Lynn Oliver, also known as Candyce Lynn Van Over, also known as Candyce Lynn Rowley, also known as Candy Lynn Rowley, et al., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MARCH 29, 2013.

It is so ORDERED FEBRUARY 28, 2013.



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID: SD2012703978

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 LINDA K. SCHNEIDER
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3 State Bar No. 101336
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Attorneys for Complainant

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10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
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12 In the Matter of the Accusation Against:

Case No. **2013-306**

13 **CANDYCE LYNN OLIVER,**
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5310 Canyon Crest Drive, Apt. 20
Riverside, CA 92507

A C C U S A T I O N

16 **Registered Nurse License No. 369900**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about March 31, 1984, the Board of Registered Nursing issued Registered
25 Nurse License Number 369900 to Candyce Lynn Oliver, also known as Candyce Lynn Van Over,
26 also known as Candyce Lynn Rowley, also known as Candy Lynn Rowley, et al. (Respondent).
27 The Registered Nurse License was in full force and effect at all times relevant to the charges
28 brought herein and will expire on August 31, 2013, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 492 of the Code states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct,

1 notwithstanding that evidence of that misconduct may be recorded in a record
2 pertaining to an arrest.

3 This section shall not be construed to apply to any drug diversion program
4 operated by any agency established under Division 2 (commencing with Section 500)
of this code, or any initiative act referred to in that division.

5 9. Section 493 of the Code states:

6 Notwithstanding any other provision of law, in a proceeding conducted by a
7 board within the department pursuant to law to deny an application for a license or to
8 suspend or revoke a license or otherwise take disciplinary action against a person who
9 holds a license, upon the ground that the applicant or the licensee has been convicted
10 of a crime substantially related to the qualifications, functions, and duties of the
11 licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

12 As used in this section, "license" includes "certificate," "permit," "authority,"
and "registration."

13 10. Section 2761 of the Code states:

14 The board may take disciplinary action against a certified or licensed nurse or
15 deny an application for a certificate or license for any of the following:

16 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

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18 (f) Conviction of a felony or of any offense substantially related to the
19 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

20

21 11. Section 2762 of the Code states:

22 In addition to other acts constituting unprofessional conduct within the meaning
23 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
licensed under this chapter to do any of the following:

24 (a) Obtain or possess in violation of law, or prescribe, or except as directed by
25 a licensed physician and surgeon, dentist, or podiatrist administer to himself or
herself, or furnish or administer to another, any controlled substance as defined in
26 Division 10 (commencing with Section 11000) of the Health and Safety Code or any
dangerous drug or dangerous device as defined in Section 4022.

27 (b) Use any controlled substance as defined in Division 10 (commencing with
28 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner

1 dangerous or injurious to himself or herself, any other person, or the public or to the
2 extent that such use impairs his or her ability to conduct with safety to the public the
practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving the prescription, consumption,
4 or self-administration of any of the substances described in subdivisions (a) and (b) of
this section, or the possession of, or falsification of a record pertaining to, the
5 substances described in subdivision (a) of this section, in which event the record of
the conviction is conclusive evidence thereof.

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7 12. Section 2765 of the Code states:

8 A plea or verdict of guilty or a conviction following a plea of nolo contendere
9 made to a charge substantially related to the qualifications, functions and duties of a
registered nurse is deemed to be a conviction within the meaning of this article. The
10 board may order the license or certificate suspended or revoked, or may decline to
issue a license or certificate, when the time for appeal has elapsed, or the judgment of
11 conviction has been affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent order under the
12 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
guilty, or dismissing the accusation, information or indictment.

13 REGULATORY PROVISIONS

14 13. California Code of Regulations, title 16, section 1444, states:

15 A conviction or act shall be considered to be substantially related to the
16 qualifications, functions or duties of a registered nurse if to a substantial degree it
evidences the present or potential unfitness of a registered nurse to practice in a
17 manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

18 (a) Assaultive or abusive conduct including, but not limited to, those violations
19 listed in subdivision (d) of Penal Code Section 11160.

20 (b) Failure to comply with any mandatory reporting requirements.

21 (c) Theft, dishonesty, fraud, or deceit.

22 (d) Any conviction or act subject to an order of registration pursuant to Section
23 290 of the Penal Code.

24 14. California Code of Regulations, title 16, section 1445 states:

25

26 (b) When considering the suspension or revocation of a license on the grounds
27 that a registered nurse has been convicted of a crime, the board, in evaluating the
rehabilitation of such person and his/her eligibility for a license will consider the
28 following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

COSTS

15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUG

16. Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(February 2, 2007 Criminal Conviction for DUI on December 6, 2006)

17. Respondent has subjected her license to disciplinary action under sections 490 and 2761, subdivision (f) of the Code in that she was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On or about February 2, 2007, in a criminal proceeding entitled *People of the State of California v. Candyce Lynn Oliver, aka Candy Lynn Rowley, aka Candyce Smith*, in Riverside County Superior Court, case number BAM030613, Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152, subdivision (a), driving under the influence, a misdemeanor. Respondent also pled guilty to violating Health and Safety Code section 11550, subdivision (a), under the influence of a controlled substance, a misdemeanor, for

1 which deferred entry of judgment was granted for 18 months under Penal Code section 1000.

2 The court dismissed additional counts of possession of controlled substance paraphernalia (Health
3 & Saf. Code, § 11364), and driving on a suspended license (Veh. Code, § 14601.1(a)) pursuant to
4 a plea agreement.

5 b. As a result of the conviction, on or about February 2, 2007, Respondent was
6 ordered to serve 10 days in custody, with credit for two days, to be served on consecutive
7 weekends, and granted 36 months summary probation. Respondent was further ordered to
8 complete a four-month First Offender DUI Program, pay fees, fines, and restitution, and comply
9 with DUI probation terms. After multiple hearings at which Respondent's probation was revoked
10 and reinstated for failure to comply with its terms, on or about October 7, 2009, after Respondent
11 failed to appear, diversion was terminated and criminal proceedings were resumed.

12 c. The facts that led to the conviction are that on or around midnight of December
13 6, 2006, a patrol officer with the Beaumont Police Department was dispatched to conduct a
14 welfare check on a female reported to be passed out behind the wheel of her vehicle. Upon
15 arrival, the officer found a vehicle with the engine running; Respondent was slumped over in the
16 driver's seat and appeared unconscious. The officer tapped on the driver's window and
17 Respondent woke up. She appeared confused and disoriented. A check of Respondent's driver's
18 license revealed it had been suspended. Respondent told the officer she did not know she was
19 asleep, did not know how she got to the location where she was parked, and denied having
20 consumed any alcohol or controlled substances. Respondent's speech was slurred and her pupils
21 showed no reaction to the officer's flashlight in her eyes. Respondent submitted to a series of
22 field sobriety tests, none of which she was able to complete satisfactorily. Respondent provided a
23 breath sample that registered a blood alcohol concentration of zero. The officer estimated
24 Respondent's pulse rate to be 112 beats per minute. Respondent was arrested. In a search of
25 Respondent's vehicle, the officer found a glass pipe typically used to smoke controlled substances
26 on the driver's floorboard. During booking, Respondent admitted to the officer that she had
27 purchased methamphetamine in Riverside earlier in the evening, and used the glass pipe found in
28 her vehicle to smoke the methamphetamine approximately one hour before police contact.

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THIRD CAUSE FOR DISCIPLINE

(Illegal Possession of a Controlled Substance)

19. Respondent has subjected her license to disciplinary action under section 2762, subdivision (a) of the Code for unprofessional conduct in that on or about December 23, 2007, as described in paragraph 18, above, Respondent possessed methamphetamine.

FOURTH CAUSE FOR DISCIPLINE

(Under the Influence of a Controlled Substance)

20. Respondent has subjected her license to disciplinary action under section 2762, subdivision (b) of the Code for unprofessional conduct in that on or about December 6, 2006, as described in paragraph 17, above, Respondent was under the influence of the controlled substance methamphetamine.

FIFTH CAUSE FOR DISCIPLINE

(Drug-Related Criminal Convictions)

21. Respondent has subjected her license to disciplinary action under section 2762, subdivision (c) of the Code for unprofessional conduct in that on or about February 2, 2007, and February 7, 2008, as described in paragraphs 17 and 18, above, Respondent was convicted of drug-related crimes.

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PRAYER

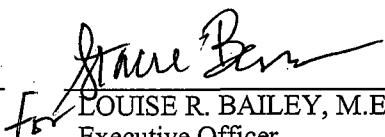
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 369900, issued to Candyce Lynn Oliver, also known as Candyce Lynn Van Over, also known as Candyce Lynn Rowley, also known as Candy Lynn Rowley, et al.;

2. Ordering Candyce Lynn Oliver to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: OCTOBER 22, 2012

for 
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2012703978